MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2018/2019

ULS3612 – LAW OF SUCCESSION

(All Sections / Groups)

07 MARCH 2019

Reading Time : 9.00 a.m. – 9.15 a.m.

(15 Minutes)

Answering Time: 9.15 a.m. – 12.15 noon.

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only. Answer **ALL** questions in **PART A** and **ONE (1)** question in **PART B.**

3. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue :
   a. Wills Act 1959
   b. Distributions (Amendment) Act 1997
   c. Probate & Administration Act 1959
   d. Small Estate (Distribution) Act 1955

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

PART A : ANSWER ALL QUESTIONS

In 2016, Mr. Thorn executed his will in the presence of his lawyer and a friend who later on attested the will in Mr. Thorn's presence but not in the presence of each other. Mr. Thorn bequeathed a quarter of his estate to each his wife (Mdm. Rose), mother (Lily), daughter (Daisy) and the balance of the estate to his four siblings in equal share. Ronnie and Romie were appointed as the executor of the will.

Mr. Thorn kept the original will and gave a certified true copy of the original will to Mdm. Rose. In September 2018, Mr. Thorn divorced Mdm. Rose and married his childhood sweetheart, Jasmine. On 1st October 2018, Jasmine found Mr. Thorn's original will and was very upset since her name was not mentioned as a beneficiary. She tore the will into pieces in front of him. Mr. Thorn promised her that he will prepare a new will giving something to Jasmine. On the next day, he wrote on a piece of paper, referring to his 2016 will, that he replaced the name 'Mdm. Rose' with 'Jasmine' and 'In all other respects, I confirm my 2016 will'. The writing was signed by him and attested by two witnesses.

Mr. Thorn died and left RM4 million in the Bank of Rusa, a bungalow worth RM7 million and two sports cars worth RM550,000 each. He was survived by his wife Jasmine and four siblings, Poppy, Strawberry, Apple and Mr. Root.

Jasmine consulted you on the distribution of Mr. Thorn's estate by presenting the following facts:

a) Both Lily and Daisy had predeceased Mr. Thorn in a traffic accident in 2017;
b) Daisy left a mother (Mdm. Rose), a son and a daughter as her heirs;
c) Mr. Thorn had also pledged, in his will,

    1. to donate RM60,000 to an orphanage in Jasin;
    2. to give RM20,000.00 to Romie as settlement for a debt of Lily's amounting to RM25,000.00;
    3. one of the rental houses included in the balance of estate to Mr. Thorn's siblings was already sold during Mr. Thorn's lifetime;

d) Ronnie refuses to manage the will since he is now migrated to Australia;
e) Romie only accepted half of the duties and refuses to deal with the immovable properties;
f) Unknown to Mr. Thorn, his mother, Lily embraced Islam before the accident;
g) Poppy is an adopted child of Lily.

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QUESTION 1

a) Mdm. Rose comes and shows to you the certified copy of the original Mr. Thorn's will. She claimed that the will was not revoked because Mr. Thorn has no intention to revoke it. Advise Mdm. Rose on the status of Mr. Thorn's will due to the revocation (if any).

(15 marks)

b) Advise Jasmine on the distribution of the property according to the will.

(10 marks)

(Total: 25 marks)

QUESTION 2

a) Analyse the role of Ronnie and Romie in Mr. Thorn's will.

(15 marks)

b) In the event both of the executors renounce their office of executorship, Jasmine wishes to appoint herself as an executrix and to manage the property. Advise her accordingly.

(10 marks)

(Total: 25 marks)

QUESTION 3

Assuming that all parties are Muslim, advise Jasmine on the legality of the wasiyyah of Mr Thorn.

(TOTAL: 25 marks)

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PART B: ANSWER ONLY ONE (1) QUESTION

QUESTION 4

Zulfikar married to Hasanah in the year 2000. In the year 2007, because of their irreconcilable differences, Zulfikar divorced Hasanah and they have only one adopted son, Azhim. In the year 2010, Zulfikar married Fatzura and they are blessed with three daughters, Sara, Siti and Jannah

Zulfikar died in December 2018 and is survived by Fatzura, Azhim, Sara, Siti, Jannah, and his father, Dato Ahmad.

a. In 2010, Zulfikar made a hibah of a land in Alor Gajah to Azhim. During that time, Azhim was 15 years old. Evaluate the rules on hibah created by Zulfikar.

(10 marks)

b. Fatzura comes to you as a family solicitor and present no wasiyyah of Zulfikar. Advise Fatzura on the distribution of Zulfikars' estates according to faraid.

(15 marks)

(Total: 25 marks)

QUESTION 5

A significant change resulting from the amendments is the elimination of the distinction between the rights of intestate succession of a surviving husband and those of a surviving wife, and consequently providing for the rights of children to share the estate of their deceased mother even where their father survives their mother (Sujata Balan, Yong Chiu Mei, 2004).

With reference to the above statement, differentiate distribution of estate under S6 of Distribution Act before and after Distribution (Amendment) Act 1997 (Act A1004).

(Total: 25 marks)

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